

Attorney Docket No: 032931/0227
Serial No.: 09/523,647

Election in Response to the Restriction Requirement

In response to the Office Action dated October 1, 2001, Applicants hereby elect the claims of Group II (claims 8, 9, and 11), drawn to vaccines containing nucleic acids, for prosecution in the subject application, with traverse.

Applicants respectfully request that new claim 38 be joined with Restriction Group II, for prosecution in the subject application.

The traversal is on the grounds that the Examiner has failed to establish that a search of the complete application would be an undue burden as required by MPEP 803. MPEP 803 states: "[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions." It is Applicants' position that the Examiner has failed to establish that a search of the entire application constitutes an undue burden. Therefore, it is requested that the entire application be searched and examined.

In accordance with this election with traverse, Applicants reserve all rights in the non-elected claims, including the right to file one or more divisional applications covering the subject matter thereof.

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Receipt of the initial Office Action on the merits is awaited.

Respectfully submitted,

Date Nov 5, 2001

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VERSION WITH MARKINGS TO SHOW CHANGES MADE

8. (Amended) A vaccine comprising ~~at least one first nucleic acid according to claim 1, and a vaccine vector~~ and at least one first nucleic acid molecule, wherein each first nucleic acid is expressed as a polypeptide, and wherein the nucleic acid molecule comprises a nucleic acid molecule comprising a nucleic acid sequence which encodes a polypeptide selected from any one of:

(a) SEO ID No: 2;

(b) an immunogenic fragment comprising at least 12 consecutive amino acids from a polypeptide of (a); and

(c) a polypeptide of (a) or (b) which has been modified without loss of immunogenicity, wherein said modified polypeptide is at least 75% identical in amino acid sequence to the corresponding polypeptide of (a) or (b);

wherein the vaccine optionally comprising ~~comprising~~ comprises a second nucleic acid encoding an additional polypeptide which enhances the immune response to the polypeptide expressed by said first nucleic acid.